

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
:
In re: :
:
:
FAIRFIELD SENTRY LIMITED, : **Chapter 15**
:
ET AL., : **Case No. 10-13164 (SMB)**
:
:
:
Debtors. : **(Jointly Administered)**
:
:
:
-----X

**STIPULATION AND ORDER CONCERNING ADMISSIBILITY OF
DECLARATIONS AND EXHIBITS IN CONNECTION WITH CONTESTED
MATTERS SCHEDULED FOR HEARING ON MARCH 31, 2015**

WHEREAS, Kenneth M. Krys, as a joint liquidator and foreign representative of Fairfield Sentry, Ltd. (the “Foreign Representative”) having filed the *Foreign Representative’s Motion Following Remand From the Second Circuit Court of Appeals for Review Pursuant to 11 U.S.C. §§ 363(b) and 1520(a)(2), and Disapproval, in Accordance With the Foreign Representative’s Business Judgment, of the Contemplated Sale of Fairfield Sentry Limited’s SIPA Claim to Farnum Place, LLC* [Dkt. No. 752] (the “Section 363 Motion”); and

WHEREAS, Farnum Place, LLC (“Farnum”) having filed the *Motion of Farnum Place, LLC Requesting (i) Modification of Recognition Order and (ii) Confirmation That Sale of Sentry Claim Does Not Require Review Under Bankruptcy Code § 1520(a)(2)* [Dkt. No. 757] (the “Farnum Motion” and, together with the Section 363 Motion, the “Motions”); and

WHEREAS, the Foreign Representative having submitted the Declaration of Daniel J. Saval [Dkt. No. 753] and the Declaration of Kenneth Krys [Dkt. No. 754] in support of the Section 363 Motion, the Declaration of Daniel J. Saval [Dkt. No. 768] in opposition to the

Farnum Motion, and the Supplemental Declaration of Daniel J. Saval [Dkt. No. 782] and the Supplemental Declaration of Kenneth Krys [Dkt. No. 783] in further support of the Section 363 Motion, and having incorporated by reference in the Section 363 Motion the Declaration of Kenneth Krys dated April 17, 2012 [Dkt. No. 591] (with a corrected Exhibit F thereto filed at Docket No. 645), the Declaration of Daniel J. Saval dated April 18, 2012 [Dkt. No. 592], the Supplemental Declaration of Daniel J. Saval dated July 13, 2012 [Dkt. No. 677], the Supplemental Declaration of Daniel J. Saval dated August 17, 2012 [Dkt. No. 695-1], the Supplemental Declaration of Kenneth Krys dated August 31, 2012 [Dkt. No. 701-1] and the Declaration of Daniel J. Saval dated December 17, 2012 [Dkt. No. 714-1] (collectively, including the exhibits and attachments thereto, the “Foreign Representative Evidence”); and

WHEREAS, Farnum having submitted a request for judicial notice (the “RJN”) [Dkt. No. 758] in support of the Farnum Motion, and the Declaration of Scott C. Shelley dated February 27, 2015 [Dkt. No. 762] (the “Shelley Declaration”) (collectively, including, the items identified in the RJN¹ and the exhibits and attachments thereto and to the Shelley Declaration, the “Farnum Evidence”); and

WHEREAS, a hearing on the Section 363 Motion and the Farnum Motion having been scheduled for 10:00 a.m. EDT on March 31, 2015; and

WHEREAS, the Foreign Representative and Farnum having stipulated and agreed to the admissibility of the Foreign Representative Evidence and the Farnum Evidence as direct evidence in connection with the Section 363 Motion and the Farnum Motion, subject to the provisions herein; and

¹ These items are listed on Schedule I annexed hereto, and for the avoidance of doubt, the Farnum Evidence includes all exhibits and attachments to each item.

WHEREAS, the Foreign Representative and Farnum having stipulated and agreed that the Foreign Representative will not provide live testimony at the hearing on the Section 363 Motion and the Farnum Motion, but will be available to respond to any questions raised by the Court, and that in the event the Foreign Representative responds to any such questions, counsel for Farnum shall have the right to cross-examine the Foreign Representative as to the subject matter of the Court's questions and, if Farnum cross-examines the Foreign Representative, counsel for the Foreign Representative shall have the right to conduct a redirect examination of the Foreign Representative as to the subject matter of such cross-examination; and

WHEREAS, the Court having considered the relief requested in this stipulation and order, and for good cause shown, it is hereby

STIPULATED AND AGREED by the Foreign Representative and Farnum as follows:

1. The Foreign Representative Evidence and the Farnum Evidence shall be admitted as direct evidence in connection with the Section 363 Motion and the Farnum Motion, provided that the admittance of the Foreign Representative Evidence and the Farnum Evidence is without prejudice to the parties' positions in connection with the Motions and (i) does not constitute an admission by any party as to the relevance of the evidence admitted by this Stipulation with respect to any specific issue and (ii) is without prejudice to the parties' positions as to the weight, if any, that should be given to such evidence;

2. The Foreign Representative will not provide live testimony at the hearing on the Section 363 Motion and the Farnum Motion, but will be available to respond to any questions raised by the Court, and in the event the Foreign Representative responds to any such questions, counsel for Farnum shall have the right to cross-examine the Foreign Representative as to the subject matter of the Court's questions and, if Farnum cross-examines the Foreign

Representative, counsel for the Foreign Representative shall have the right to conduct a redirect examination of the Foreign Representative as to the subject matter of such cross-examination; and

3. Nothing in this Stipulation shall constitute, nor be deemed to constitute, a waiver of any rights or objections of the parties in connection with the Section 363 Motion or the Farnum Motion, including, without limitation, the Foreign Representative's objection to Farnum's standing to make the Farnum Motion and to be heard in connection with the Section 363 Motion and Farnum's right to respond to such objections, and all such rights and objections are expressly reserved.

[signature page follows]

Dated: March 26, 2015
New York, NY

By: /s/ Scott C. Shelley
Scott C. Shelley
Quinn Emanuel Urquhart
& Sullivan, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010
Telephone: (212) 849-7000
Telecopier: (212) 849-7100

Eric D. Winston
Matthew Scheck
865 S. Figueroa St., 10th Floor
Los Angeles, California 90017
Telephone: (213) 443-3000
Telecopier: (213) 443-3100

Counsel for Farnum Place, LLC

By: /s/ Daniel J. Saval
David J. Molton, Esquire
Daniel J. Saval, Esquire
BROWN RUDNICK LLP
Seven Times Square
New York, NY 10036
(212) 209-4800

*Counsel for the Foreign
Representative*

March 27th, 2015
New York, NY

SO ORDERED:

/s/ STUART M. BERNSTEIN
Hon. Stuart M. Bernstein
United States Bankruptcy Judge

Schedule I

1. Farnum Place, LLC's Objection to the Foreign Representative's Application, Pursuant to 11 U.S.C. §§ 105(a), 363, 1520(a)(2) and 1521(a), for Consideration of SIPA Claim Assignment Transaction Contemplated by Trade Confirmation, filed July 23, 2012 (Dkt. No. 683).

2. Declaration of Scott C. Shelley, dated June 15, 2012 (Dkt. No. 657).

3. Declaration of James F. Mooney in Support of Farnum Place LLC's Objection to Foreign Representatives Application, Pursuant to 11 U.S.C. §§ 105(a), 1507(a), 1520(a)(2), and 1521(a), for Consideration of SIPA Claim Assignment Transaction Contemplated by Trade Confirmation, dated June 15, 2012 (Dkt. No. 659).

4. Declaration of Anne H. Pak in Support of Farnum Place LLC's Objection to Foreign Representatives Application, Pursuant to 11 U.S.C. §§ 105(a), 1507(a), 1520(a)(2), and 1521(a), for Consideration of SIPA Claim Assignment Transaction Contemplated by Trade Confirmation, dated June 15, 2012 (Dkt. No. 660).

5. Declaration of Thomas T. Janover in Support of Farnum Place LLC's Objection to Foreign Representatives Application, Pursuant to 11 U.S.C. §§ 105(a), 1507(a), 1520(a)(2), and 1521(a), for Consideration of SIPA Claim Assignment Transaction Contemplated by Trade Confirmation, dated June 15, 2012 (Dkt. No. 661).

6. Request for Judicial Notice in Support of Farnum Place, LLC's Objection to the Foreign Representative's Application, Pursuant to 11 U.S.C. §§ 105(a), 363, 1520(a)(2) and 1521(a), for Consideration of SIPA Claim Assignment Transaction Contemplated by Trade Confirmation, filed June 15, 2012 (Dkt. No. 662).

7. Response of Farnum Place, LLC to Motion of the Foreign Representative for Leave to Further Supplement Reply Papers in Support of Application Pursuant to 11 U.S.C. §§ 105(a), 363, 1520(a)(2) and 1521(a)(2) for Consideration of SIPA Claim Assignment Transaction, filed January 2, 2013 (Dkt. No. 716).

8. BVI Trade Confirmation Judgment – Exhibit G to the Declaration of Kenneth Kryes In Support of Foreign Representative's Application, Pursuant to 11 U.S.C. §§ 105(a), 363, 1520(a)(2) and 1521(a), for Consideration of SIPA Claim Assignment Transaction Contemplated by Trade Confirmation, filed April 18, 2012 (Dkt. No. 591).

Documents From the Eastern Caribbean Supreme Court, In the High Court of Justice (Commercial Division) (the "BVI Court")

9. Transcript of Chambers Proceedings, dated March 5, 2013, reflecting proceedings *In the Matter of Fairfield Sentry Limited (In Liquidation)* concerning costs (the "Transcript"), a true copy of which is annexed to the RJN as **Exhibit A**.

10. Order, entered February 25, 2014, issued by the BVI Court (directing the estate of Fairfield Sentry Limited to pay Farnum its costs of trial in connection with the trial before the BVI Court concerning enforceability of the Trade Confirmation), a true copy of which is annexed to the RJN as **Exhibit B**.

11. Order, dated September 26, 2013, issued by the BVI Court (approving the form of Assignment Agreement), including form of Assignment Agreement and related documents, a true copy of which is annexed to the RJN as **Exhibit C**.

12. Judgment, dated February 18, 2014, issued by Hon. Mr. Davidson Kelvin Baptiste, Justice of the Eastern Caribbean Court of Appeals (authorizing the Foreign Representative to file a reply brief with the U.S. Court of Appeals for the Second Circuit in order to preserve his appeal), a true copy of which is annexed to the RJN as **Exhibit D**.

Documents Filed in the United States District Court for the Southern District of New York, Case No. 11 Civ. 5905

13. Memorandum and Order, dated January 8, 2014 (Dkt. No. 23), a true copy of which is annexed to the RJN as **Exhibit E**.

14. Memorandum of Law in Support of Trustee's Motion to Intervene, filed February 28, 2014 (Dkt. No. 28), a true copy of which is annexed to the RJN as **Exhibit F**.